



July 26, 2018

VIA ECF, FEDEX & EMAIL

Hon. Robert D. Drain
United States Bankruptcy Court
Southern District of New York
300 Quarropas Street
White Plains, NY 10601-4140
Judge_drain@nysb.uscourts.gov

Re: *Anderson v. Credit One Bank, N.A., et al.*
Case No. 14-22147, Adv. Proc. No. 15-08214 (RDD)

Belton v. GE Capital Consumer Lending, Inc.,
Case No. 12-23037, Adv. Proc. No. 14-8223 (RDD)

Bruce v. Citigroup, et al.,
Case No. 13-22088, Adv. Proc. No. 14-8224 (RDD)

Anderson v. Capital One Bank (USA), N.A.
Case No. 14-22147, Adv. Proc. No. 15-08342 (RDD)

Dear Judge Drain,

We represent Plaintiffs in the above-referenced actions. The Court has asked for a status report on the four (4) above cases. We provide this report to the Court and respectfully request an in-person conference with the Court to discuss our next steps in each of these cases. As we note below, we believe that it would be helpful to the parties if the Court would hold a settlement conference in each of these cases.

Anderson v. Credit One (Case No. 14-22147, Adv. Proc. No. 15-08214 (RDD))

On November 10, 2016, the Court stated that it would sanction Credit One by defaulting it on the merits because of its discovery abuse, but the Court has not yet entered a written decision. On March 27, 2017, Credit One agreed to an order to end the contested practice and to delete trade lines.

On October 12, 2017, the Court held a hearing on Anderson's motion to certify an injunctive relief class and a monetary relief class and supplemental briefs were filed on October 31, 2017 and November 13, 2017.



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At the class certification hearing, the Court stated that it would certify an injunctive relief class, that it would award attorneys' fees, and that it would reserve ruling on the monetary relief class. All of those rulings are *sub judice*.

Plaintiff respectfully requests that the Court issue an order as to the rulings that it indicated that it had already decided: (1) defaulting Credit One on the merits; (2) certifying an injunctive relief class; and (3) awarding attorneys' fees both as a sanction under Rule 37 and based on the value to the class of the injunctive relief provided under 11 U.S.C § 524.

On March 7, 2018, the Second Circuit affirmed Your Honor's order denying Credit One's motion to compel arbitration. *In re Anderson*, 884 F.3d 832 (2d Cir. 2018). Credit One filed a petition for certiorari which is pending and is expected to be ruled on by October 2018.

***Belton v. GE Capital Consumer Lending, Inc. a/k/a Synchrony* (Case No. 12-23037, Adv. Proc. No. 14-8223 (RDD))**

***Bruce v. Citigroup* (Case No. 13-22088, Adv. Proc. No. 14-8224 (RDD))**

On October 14, 2015, the District Court reversed Your Honor's order denying GE/Synchrony's and Citigroup's motion to compel arbitration. On March 17, 2016, Plaintiffs Belton and Bruce sought mandamus. On June 26, 2018, after the Second Circuit ruled on the same issues in *Anderson v. Credit One*, the Second Circuit denied the mandamus stating that the mandamus petitions were denied because "Petitioner can seek the requested relief by moving for reconsideration of its order in light of this Court's decision in *In re Anderson*." On July 10, 2018, Plaintiffs Belton and Bruce moved the District Court for reconsideration. Briefing is not complete as GE/Synchrony and Citigroup are to file their opposition on August 7, 2018.

***Anderson v. Capital One* (Case No. 14-22147, Adv. Proc. No. 15-08342 (RDD))**

Since August, 2015 the parties have been engaging in fact discovery. Plaintiff has taken one Rule 30(b)(6) deposition and Capital One has produced approximately 220,000 pages of documents and a privilege log. The parties continue to engage in discovery.

Settlement Status

In *Anderson v. Credit One*, the parties engaged in an unsuccessful private mediation on April 24, 2017. No mediation has occurred in the other cases (GE, Citigroup, or Capital One).

Plaintiff continues to believe that settlement discussions would be fruitful and respectfully requests that the Court hold a settlement conference in the above cases.



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Respectfully submitted,

/s/ Adam R. Shaw

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ARS/lmr

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